THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21633 of 1998

Dated 03-10-2007

Between:
The Divisional Manager, APSRTC, Nalgonda.

..... PETITIONERS

AND

The Industrial Tribunal-II, Hyderabad & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.21633 of 1998

O R D E R:

The order of the Industrial Tribunal, Hyderabad in passing an order in E.P.No.3 of 1998 dated 24-06-1998 far in excess of the relief granted in I.D.No.95 of 1994 dated
31-07-1995, is impugned in this writ petition as an order without jurisdiction.

It is wholly unnecessary for this Court to go into the facts of the case in detail. Suffice to note that the demand of the A.P.S.R.T.C. Staff and Workers Federation, Nalgonda that the seniority of one Sri Imam Khan, Assistant Depot Clerk, Devarkonda be fixed from 14-12-1978 was referred for adjudication to the Industrial Tribunal and, by its award dated 31-07-1995, the Industrial Tribunal held that Sri Imam Khan was entitled for fixation of seniority above his junior
Sri M.B.Krishnaiah, who was promoted on 18-06-1980. The Industrial Tribunal, while holding that the demand of the union was not justified, however, directed that Sri Imam Khan be given seniority over and above Sri M.B.Krishnaiah and that he was entitled for all consequential reliefs including monetary benefits.

On the failure of the Management to give seniority to
Sri Imam Khan pursuant to the award, the Union filed E.P.No.3 of 1998 under Section 11-B of the Industrial Disputes Act, 1947. The Union contended that the monetary benefits payable to Sri Imam Khan was Rs.3,58,483.77ps. The Management, however, contended that the said amount was first required to be determined by the Industrial Tribunal on a petition filed under Section 33(c)(2) of the Industrial Disputes Act and only after the claim was determined, and

the monetary benefits payable to the workman computed, could a execution petition be filed for releasing the said amount. The Industrial Tribunal, however, directed the Management to deposit 1/4th of the claim amount of Rs.3,58,483.77ps. within one month. Aggrieved thereby, the present writ petition.

Smt B.G.Uma Devi, learned standing counsel for the petitioner-Corporation, would contend that 1/4th of the amount is approximately Rs.90,000/-.

This Court, by order in WVMP.No.3669 of 1998 dated 31-12-1998, stayed further proceedings in the execution petition on condition that a sum of Rs.50,000/- was deposited in the Court. By order dated 21-12-1999, this Court held that the workman was entitled to withdraw the entire amount without furnishing security.

Sri G.Ravi Mohan, learned counsel appearing on behalf of the second respondent, would submit that Sri Imam Khan has already withdrawn the amount of Rs.50,000/-, that since he has retired from service long ago the cause in the writ petition does not survive adjudication and the writ petition is liable to be dismissed as infructuous.

It is not in dispute that the award of the Industrial Tribunal in I.D.No.95 of 1994 dated 31-07-1995 has attained finality and thereunder Sri Imam Khan was entitled to have his seniority fixed above his junior Sri M.B.Krishnaiah with effect from 14-06-1980 and be given all consequential reliefs including monetary benefits. As a consequence of the award of the Industrial Tribunal, Sri Imam Khan is entitled for the monetary benefits for the period 14-06-1980 till 24-12-1980, the date on which he was actually promoted.

Neither Smt B.G.Uma Devi, learned standing counsel for the Corporation nor Sri G.Ravi Mohan, learned counsel appearing for the second respondent, are in a position to state whether the monetary benefits payable to Sri Imam Khan pursuant to the award of the

Industrial Tribunal is in excess of or less than the Rs.50,000/- deposited by the petitioner-Corporation, which amount was subsequently withdrawn by
Sri Imam Khan.

In such circumstances, ends of justice would require the petitioner-Corporation to compute the actual amount payable to Sri Imam Khan, put him on notice, invite his objections, if any, thereto, and thereafter, determine the amount payable to him. In case, the amount payable exceeds Rs.50,000/- then the remaining amount shall be paid by the Corporation to Sri Imam Khan within a period of one month from the date on which final computation is made. If, however, the amount payable is less than the Rs.50,000/-, withdrawn by him, it is open to the petitioner-Corporation to take such steps as are available to them in law to recover the said amount. Needless to state that, in case Sri Imam Khan is aggrieved by the computation, it is always open for him to avail such remedies as are available to him in law.

The Writ Petition is, accordingly, disposed of. However, in the circumstances, without costs.

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03-10-2007

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